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UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

EXHIBIT

12

Case No. 2:13-cv-00197

***** *
MICHAEL J. PRATT, Administer of the *
Estate of Eric J. Pratt, Deceased *
Plaintiff *
vs. *
NATIONAL RAILROAD PASSENGER *
CORPORATION d/b/a, AMTRAK, NEW *
ENGLAND CENTRAL RAILROAD, INC., *
MICHAEL D. KUJALA AND WILLIAM C. *
RAE, *
Defendants *
***** *

VIDEOTAPED DEPOSITION OF: WILLIAM RAE

BUCKLEY RICHARDSON

1500 Main Street

Springfield, Massachusetts

July 9, 2014 10:07 A.M.

Sharon Waskiewicz

Court Reporter

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1 Q. So to go from assistant conductor, to be
2 qualified as a conductor, what do you have to do?

3 A. Take a conductor promotion exam and
4 you're qualified on physical characteristics.

5 Q. What does that mean?

6 A. It means knowing where you are on the
7 railroad.

8 Q. Navigation-type stuff, like where you are
9 on the track?

10 A. Yes.

11 Q. Now that, going from assistant conductor,
12 assistant conductor to conductor, that doesn't have
13 anything to do with, you know, driving, operating of
14 the train, right?

15 A. No.

16 Q. So then you were a conductor for a while?

17 A. Yes.

18 Q. At some point how did it come to be that
19 you went to engineer school?

20 A. I applied for it and I was interviewed
21 for it and I was accepted into the program.

22 Q. Tell me what's involved with that, what
23 did you have to do with that school?

24 A. It was Wilmington, Delaware for
25 approximately eight weeks, nine weeks, and then it's

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1 about a year and a half of on-the-job training.

2 Q. When did you complete that; in other
3 words, when was your year and a half of on the job
4 done, about?

5 A. 2007.

6 Q. So right after -- well, I guess right
7 after that then you were qualified as an engineer for
8 the railroad?

9 A. Yes.

10 Q. And have you been in the engineer
11 position ever since?

12 A. Yes.

13 Q. What licenses and certifications are you
14 required to have?

15 A. I have a locomotive engineer license.

16 Q. Was that up to date on the day of the
17 accident?

18 A. Yes.

19 Q. I'm going to ask you a little bit about
20 some of the rules you have to follow on the railroad.
21 As far as rule books that apply to you, to the
22 operation of the train, what rule books are you
23 required to follow, what sets of rules? GCOR is one,
24 right?

25 A. Yes.

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1 route, right?

2 A. Yes.

3 Q. All right. Tell me, just tell me in your
4 own words starting from, I don't know, a couple of
5 minutes or so before you get to that crossing where
6 this happened, just give me, you know, your own words
7 what happened and what you observed up until the time
8 the train hit Eric?

9 A. Traveling north I came out of a
10 40-mile-an-hour speed restriction. I came around a
11 corner into a straightaway and I saw a car and two
12 people on the side. I blew -- started blowing the
13 whistle. The first person walked in front of my
14 train while I was continually blowing the whistle,
15 and then as we got closer to the crossing, the second
16 person just walked in front of us. And before he
17 walked in front of us I put the train into emergency.

18 Q. All right. So as you approached this
19 Bemis Road crossing, you have a straightaway before
20 that, correct?

21 A. A small one, yes.

22 Q. So once you hit the straightaway you can
23 see if there's a car there?

24 A. Yes.

25 Q. When you hit the straightaway, was the

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1 Q. What's the rule for sounding the horn at
2 crossings, what are you supposed to do?

3 A. Two longs, a short and a long, is the
4 whistle cadence.

5 Q. How long are you supposed to do it for?

6 A. From the whistle posts to the crossing.

7 Q. Now, does this Bemis Road have a whistle
8 post?

9 A. I don't know.

10 Q. Just as far as the rule that you follow,
11 you follow the horn rule for every crossing whether
12 it's private or public?

13 A. Yes.

14 Q. Is that what the railroad tells you to
15 do?

16 A. That's what I do.

17 Q. Do you have -- excuse me -- do you have
18 crossings on your route that don't have whistle
19 boards?

20 A. Yes.

21 Q. What do you do on one of those, what's
22 your procedure? How long before do you sound the
23 horn?

24 A. If it does not have a whistle post, I
25 would sound the horn where the whistle post would be.

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1 A. Loud.

2 Q. Not loud enough that you feel like you
3 should wear ear protection, though, at that time?

4 A. If you have the windows closed, it's not
5 as loud as if you were outside.

6 Q. And this was a January day and I assume
7 you had the windows closed?

8 A. Yes.

9 Q. Do you know where the horn is located on
10 the engine?

11 A. Yes.

12 Q. Where's it at?

13 A. On the top of the engine.

14 Q. The top towards the front, the back,
15 middle, do you know?

16 A. I don't know.

17 Q. All right. So when you first see the two
18 boys, are you sounding your horn at that point?

19 A. Yes.

20 Q. Now, the first boy -- well, I want to
21 make sure. I don't want to put words in your mouth.
22 There is two of them and they were walking, roughly,
23 one in front of the other; is that how you saw it?

24 A. I saw two people to the right of the
25 tracks and I saw one cross the tracks and the second

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1 one crossed the tracks.

2 Q. Okay. So you have on your right, as
3 you're coming to Bemis Road, you're going parallel,
4 roughly, at that point, to Route 142, right?

5 A. Yes.

6 Q. And then there is a small part of Bemis
7 Road that's between Route 142 and the rails, right?

8 A. Yes.

9 Q. When you first saw the boys, were they on
10 that small piece or were they still on 142, if you
11 know?

12 A. They weren't on 142.

13 Q. So they were somewhere between 142 and
14 the rails when you first saw them?

15 A. Yes.

16 Q. Do you know if they were moving when you
17 first saw them, the first time you saw them?

18 A. No. I don't recall.

19 Q. Do you know how far away you were from
20 the crossing when you first saw them?

21 A. No.

22 Q. And how much time passed from the time
23 you first saw them until the train hit Eric?

24 A. I have no idea.

25 Q. All right. So the first boy, at some

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1 point he's moving. You don't know whether he was
2 moving the very first time you saw him, correct?

3 A. Correct.

4 Q. But then he either starts to or is
5 moving, and tell me what he does.

6 A. Crossing the tracks.

7 Q. Is he walking or running?

8 A. I don't know.

9 Q. Does he look at the train?

10 A. I don't recall. I don't see faces; I see
11 individuals.

12 Q. You're sounding your horn at this time,
13 right?

14 A. Yes.

15 Q. Did it appear to you that he had heard
16 the horn, any type of reaction?

17 MR. HEMLEY: Objection.

18 THE WITNESS: I don't remember if he
19 had a reaction or not.

20 Q. (By Mr. Sullivan) Okay. That one made
21 it across, right?

22 A. Yes.

23 Q. The second boy, do you remember what he
24 was doing, walking, running?

25 A. Walking.

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1 Q. Do you know where he was looking, at
2 least as far as you could observe?

3 A. I don't know where he was looking.

4 Q. Did you see either of the kids' faces
5 ever?

6 A. No.

7 Q. Did you see the second boy, did you
8 observe any kind of reaction to him startling by the
9 horn, anything like that?

10 MR. HEMLEY: Objection.

11 THE WITNESS: I don't remember any
12 reaction.

13 Q. (By Mr. Sullivan) As he is walking --
14 well, eventually -- let me just make sure we know
15 this: When the train hits him, you can't see him,
16 right?

17 A. No.

18 Q. He disappeared, sort of, from the front
19 of your train in your view?

20 A. Yes.

21 Q. So for the time you can see him, does he
22 just move at whatever the pace is, just a study pace
23 in front of the train?

24 A. Yes.

25 Q. And you never saw him look up and saw his

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1 face, right?

2 A. I didn't see him, no.

3 Q. Are you on the right side or the left
4 side?

5 A. The right.

6 Q. You put the train in emergency, did you
7 say, before you hit him?

8 A. Yes.

9 Q. Very shortly before?

10 A. It would have been this whole process
11 happened very shortly. So --

12 Q. Go ahead. I don't want to interrupt you.

13 A. I put the train into emergency when it
14 was evident that he was going in front of the train.

15 Q. The whole time that you could see them,
16 in other words, from the time you see him until the
17 time he was struck by the train, that's a matter of
18 seconds?

19 A. A matter of seconds.

20 Q. All right. So you put the train into
21 emergency then?

22 A. Yes.

23 Q. I think I saw that you stayed on the
24 train after the incident, correct?

25 A. Yes.